

### **Remarks**

Applicant respectfully requests reconsideration of this application as amended. Claims 1 through 24 have been canceled. Claims 25 through 44 have been added. No claims have been amended. Therefore, claims 25-44 are presented for examination.

### **35 U.S.C. §112 Rejection**

Claims 1-24 stand rejected under 35 U.S.C. §112 as failing to comply with the written description requirement. More specifically, the Office Action states that the claim(s) contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. (Office Action mailed 8/15/06 at pgs. 2-3.) Claims 1-24 have been canceled. Therefore, applicant submits that the present §112 rejection has been obviated, and as such, respectfully requests its withdrawal.

### **35 U.S.C. §103(a) Rejection**

Claims 1-24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Crawley et al. (U.S. Patent No. 5,995,503) in view of Nessett et al. (U.S. Patent No. 5,968,176). Claims 1-24 have been canceled. New claims 25-44 have been added. Applicant submits that new claims 25-44 are patentable over Crawley in view of Nessett.

Briefly, Crawley discloses a system for providing quality of service routing functions in a connectionless network having multiple nodes. Nessett discloses a system

for establishing security in a network that includes nodes having security functions operating in multiple protocol layers.

Claim 25 recites:

A method comprising:

- receiving, at a quality of service (QoS) module from an originating router, a session request for establishing a QoS session for transmitting information from the originating router to a destination router, the originating and destination routers being Internet Protocol (IP) routers;

- sending, from the QoS modules, a message to the originating router in response to the session request, the message including a request to reserve resources at the originating router for transmitting the information according to parameters of the QoS session; and

- setting up, by the QoS module, the QoS session on the transmission path between the originating and destination routers in accordance with the session request if the resources are available and reserved at the originating router;

- wherein the QoS module is located at a QoS hosting site of a Wide Area Network (WAN) that is communicably coupled to the originating and destination routers.

The Office Action combines the references of Crawley and Nessett as disclosing the features of previous claim 1 under a 35 U.S.C. §103 obviousness rejection. Claim 1 has been canceled. However, applicant will address the present rejections with respect to new claims 25-44. Applicant submits that the Office Action has failed to establish a prima facie case of obviousness under 35 U.S.C. §103. As provided in the MPEP §2143, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

*Prior Art References When Combined Must Teach or Suggest All Claim Limitations:*

First, applicant submits that Crawley in view of Nessett does not disclose each and every feature of claim 25. To establish a prima facie case of obviousness, “the prior art reference (or references when combined) must teach or suggest all the claim limitations.” (MPEP §2143.) Applicant submits that Crawley in view of Nessett does not disclose or suggest setting up, by a QoS module, the QoS session on the transmission path between the originating and destination routers in accordance with the session request if the resources are available and reserved at the originating router, wherein the QoS module is located at a QoS hosting site of a Wide Area Network (WAN) that is communicably coupled to the originating and destination routers, as recited by claim 25.

Applicant submits that Crawley does not disclose or suggest the above cited feature. In fact, Crawley shows the originating and destination routers themselves performing QoS session initiation and setup. (See, e.g., Crawley at Fig. 8 and col. 7, ln. 27-col. 8, ln.39.) There is no disclosure or suggestion in Crawley of a separate QoS module located at a QoS hosting site of a WAN that sets up a QoS session between originating and destination routers.

Similarly, Nessett also does not disclose or suggest the above-cited feature of claim 25. Applicant can find no disclosure or suggestion anywhere in Nessett of setting up a QoS session. Nor can applicant find any disclosure or suggestion in Nessett of a QoS module located at a QoS hosting site of a WAN that handles the QoS session setup.

As neither Crawley nor Nessett individually disclose or suggest the above-cited feature of claim 25, any combination of Crawley and Nessett also does not disclose or

suggest such a feature. Therefore, claim 25, as well as its dependent claims, is patentable over Crawley in view of Nessett.

*Prior Art Must Provide a Suggestion or Motivation to Combine the References:*

Second, applicant submits that there is no suggestion or motivation to combine the prior art references. “Obviousness can only be established by combining or modifying the teaching of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art.” (MPEP at §2143.01(I).) Applicant submits that there is no motivation or suggestion to combine Crawley and Nessett.

Crawley discusses providing QoS routing functions in a connectionless network. On the other hand, Nessett deals with establishing security in a network that includes nodes having security functions operating in multiple protocol layers. Nessett does not include any discussion or teaching of QoS sessions in a network. Nessett deals with providing a multiplayer firewall system. As such, neither Crawley nor Nessett explicitly or implicitly provides a teaching, suggestion, or motivation to combine the two references. Nor would one skilled in the art find any teaching, suggestion, or motivation to combine Crawley and Nessett. As such, applicant submits Crawley and Nessett are improperly combine under a 35 U.S.C. §103 rejection against the present claims.

Independent claims 32 and 39 also recite, in part, setting up, by a QoS module, the QoS session on the transmission path between the originating and destination routers

in accordance with the session request if the resources are available and reserved at the originating router, wherein the QoS module is located at a QoS hosting site of a Wide Area Network (WAN) that is communicably coupled to the originating and destination routers. As discussed above, Crawley in view of Nessett does not disclose or suggest such a feature. Therefore, claims 32 and 39, as well as their respective dependent claims, are patentable over Crawley in view of Nessett for the various reasons discussed above.

For the above reasons, applicant submits that a prima facie case of obviousness has not been established against the present claims. As such, the present claims are patentable under a 35 U.S.C. §103 rejection.

### **Support for New Claims**

Applicant submits that no new matter is included in new claims 25 – 44. Support can be found in the specification as original filed. Support for claims 25 – 31 can be found at least on pages 5 and 9 – 11, and Fig. 3A – 3B. Support for claims 32 – 38 can be found at least in Figs. 1 – 2 and pages 5 – 10. Support for claims 39 – 44 can be found at least on pages 5 – 10.

### **Conclusion**

Applicant respectfully submits that the rejections have been overcome and that the claims are in condition for allowance. Accordingly, applicant respectfully requests the rejections be withdrawn and the claims be allowed. The Examiner is requested to call the undersigned at (720) 377-0709 if there remains any issue with allowance of the case.

**Petition for Extension of Time**

Applicant respectfully petitions for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 50-3199 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension. Please charge any shortage to our Deposit Account No. 50-3199.

Respectfully submitted,

Level 3 Communications, LLC

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